

CHAPTER NO. 428

HOUSE BILL NO. 1319

By Representative Kisber

Substituted for: Senate Bill No. 1400

By Senator Rochelle

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 82, Part 5, relative to the issuance, sale and terms of bonds and refunding bonds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-82-502(a), is hereby amended by deleting the phrase "payable semiannually" after the phrase "such rate or rates" in the first sentence and by substituting the phrase "(which may vary from time to time)".

SECTION 2. Tennessee Code Annotated, Section 7-82-502, is hereby amended by adding the following new subsections:

(c) With respect to all or any portion of any issue of bonds issued hereunder, at any time during the term of the bonds, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized in this subsection are in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board, as set forth in subsection (e) hereof, a utility district by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the utility district may determine, including, without limitation, provisions permitting the utility district to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(d) The governing body of a utility district may enter into an agreement to sell its bonds (other than its refunding bonds) under this chapter providing for delivery of its bonds on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the Comptroller or his designee) from the date of execution of such agreement or to sell its refunding bonds under this chapter and in accordance with Title 9, Chapter 21, providing for delivery of its refunding bonds on a date greater than ninety (90) days from the date of execution of the agreement and not greater than the first optional redemption date on which the bonds being refunding can be optionally redeemed resulting in cost savings or at par, whichever is earlier, only upon receipt of a report of the Comptroller of the Treasury or his designee finding that the agreement or contract of a utility district to sell its bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board in accordance with the provisions of subsection (e) hereof. Agreements to sell bonds or refunding bonds for delivery ninety (90) days or less from the date of execution of the agreement do not require a report of the Comptroller of the Treasury or his designee.

(e) The State Funding Board shall establish guidelines, rules or regulations with respect to the agreements and contracts referenced in

subsections (c) and (d) hereof, which may include, but shall not be limited to, the following:

- (1) the conditions under which such agreements or contracts can be entered into;
- (2) the methods by which such contracts are to be solicited and procured;
- (3) the form and content such contracts shall take;
- (4) the aspects of risk exposure associated with such contracts;
- (5) the standards and procedures for counterparty selection, including rating criteria;
- (6) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts or agreements;
- (7) the methods of securing the financial interest in such contracts;
- (8) the methods to be used to reflect such contracts in the utility district's financial statements;
- (9) financial monitoring and periodic assessment of such contracts by the utility district;
- (10) the application and source of non-periodic payments; and
- (11) educational requirements for officials of any utility district responsible for approving any such contract or agreement.

Prior to the adoption by the governing body of the utility district of a resolution authorizing such contract or agreement, a request shall be submitted to the Comptroller of this State or his designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or regulations of the State Funding Board. Within fifteen (15) days of receipt of the request, the Comptroller or his designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the utility district. If the report of the Comptroller or his designee finds that the contract or agreement complies with the guidelines, rules or regulations of the State Funding Board or the Comptroller shall fail to report within said fifteen (15) day period, then the utility district may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the State Funding Board. If the report of the Comptroller or his designee finds that such contract or agreement is not in compliance with the guidelines rules or regulations, then the utility district is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for an appeal process to a determination of noncompliance.

(f) When entering into any contracts or agreements facilitating the issuance and sale of bonds, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating

thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of the bonds authorized under this section evidencing a transaction bearing a reasonable relationship to this State and also to another state or nation, the utility district may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this State or the laws of such other state or nation; provided, however, jurisdiction over any utility district against which an action on such a contract or agreement is brought shall lie solely in a court in Tennessee which would otherwise have jurisdiction of actions brought in contract against such utility district.

(g) Prior to the adoption or promulgation by the State Funding Board of guidelines, rules or regulations with respect to the contracts and agreements authorized in subsections (c) and (d) hereof, a utility district may enter into such contracts or agreements to the extent otherwise authorized in this chapter or in any other law notwithstanding subsections (c) and (d) hereof. Nothing in the provisions of subsections (c), (d), (e) or (f) is intended to alter any existing authority in this chapter or in any other law otherwise providing authority for a utility district to enter into the contracts or agreements described in subsections (c), (d), (e) or (f) heretofore entered into or entered into prior to the adoption of promulgation by the State Funding Board of guidelines, rules or regulations.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect on July 1, 1999, the public welfare requiring it.

PASSED: May 27, 1999



JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999



DON SUNDQUIST, GOVERNOR